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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/643,850      | 08/20/2003  | Carlos M. Gonzalez   |                     | 6598             |

7590 07/25/2005  
Carlos M. Gonzalez  
3924 Tedrich Boulevard  
Fairfax, VA 22031

EXAMINER

REESE, DAVID C

ART UNIT PAPER NUMBER

3677

DATE MAILED: 07/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/643,850

Applicant(s)

GONZALEZ, CARLOS M.

Examiner

David C. Reese

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This office action is in response to Applicant's amendment filed 6/15/2005.

#### ***Status of Claims***

- [1] New Claims 1-6 are pending.

#### ***Drawings***

- [2] The drawing(s) were previously objected for informalities. In view of Applicant's replacement drawing(s) submitted on 6/15/2005, all previous objection(s) to the drawings have been withdrawn. Accordingly, the changes have been entered.

#### ***Claim Objections***

- [3] Claim(s) 1, 4-5 were previously objected to because of informalities. Applicant has successfully addressed these issues in the amendment filed on 6/15/2005. Accordingly, the objection(s) to the claim(s) 1, 4-5 have been withdrawn. Upon further examination of the instant claims submitted on 6/15/2005, however, additional claim objections have been noted. In Claims 1, 4, and 6 the use of the statement, "the said" is not needed, as it is redundant. Consider changing to either, "the," or "said."

Also, in claim 1, consider changing "earring side," to "said of earring," for better clarification.

Lastly, Claim 5 recites the limitation "the wall" in the instant claim and dependent one therefrom. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

[4] The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

[5] Claims 1-6 are rejected under 35 U.S.C. 102(b) as clearly anticipated by Ford, US-4,899,556, because the invention was patented or described in a printed publication in this or a foreign country, or in public use or on sale in this country more than one (1) year prior to the application for patent in the United States.

The shape and appearance of Ford is identical in all material respects to that of the claimed design, *Hupp v. Siroflex of America Inc.*, 122 F.3d 1456, 43 USPQ2d 1887 (Fed. Cir. 1997).

As for Claim 1, Ford teaches of jewelry with interchangeable ornamentation, for setting different ear attachment methods on earrings; said device is composed of a universal female connector (42 in Fig. 2) and a plurality of removable and selectable male connectors (20 with 50 in Fig. 2, and from column 4, line 46 stating, "Post 50, such as the post normally associated with earrings of the type especially devised for wearers having pierced ears, projects from the rear side 28 of backing member 20. As will be appreciated by those skilled in the art, post 50 is intended to be representative of pins, clips and other attachment means for detachably securing the immediate jewelry device to a selected substrate such as the body or an item of clothing"); where said female connector (42) is comprised of a side (40) that is of substantially flat form, and said side (40) is attached to a side of the earring (vertical side to the right of 40, lower left of 38; part of earring 38) that has at least a portion of its surface flat and of size similar to the said female connector side (40), and said earring side (vertical side to the right of 40, lower left of 38; part of earring 38) is facing an ear when said earring is attached to said ear, a female receptacle (45) having only a single entry for receiving one of the selectable male connectors (20), each one of the male connectors (20) being complementary shaped to a shape of said female receptacle (45; via 32 onto 40), such that a selectable male connector (20) is received into the female receptacle (45) of the female connector (42), and a mechanism (49) to lock in place a selectable and attachable male connector (20) to said female connector (42), and where each of the said selectable male connector (20) implements a different method of attaching an earring to an ear (see column 4, beginning with line 46).

As for Claim 2, Ford teaches of a jewelry device wherein the female receptacle (45) is perpendicular to said side (40) that attaches to the earring (38).

As for Claim 3, Ford teaches of a jewelry device wherein the female receptacle (45) is parallel to said side (40) that attaches to the earring (38).

As for Claim 4, where said female connector (42) is comprised of a side (40) that is of substantially flat form, and said side (40) is attached to a side of an earring (vertical side to the right of 40, lower left of 38; part of earring 38) that has at last a portion of its surface flat and of size similar to the said female connector side (40), and said earring side (vertical side to the right of 40, lower left of 38; part of earring 38) is facing an ear when said earring is attached to said ear, a female receptacle (45) having only a single entry for receiving a selectable male connector (20 via 32 onto 40), where said male connector (20) being complementary shaped to the shape of said female receptacle, (45; via 32 onto 40) and a locking mechanism (49).

As for Claim 5, wherein the female connector side (40) that is of substantially flat form and is attached to a side of an earring (vertical side to the right of 40, lower left of 38; part of earring 38) has said substantially flat side composed of the flat edge of the wall (40) comprising the female receptacle (45) of said female connector (42).

As for Claim 6, Ford teaches of a jewelry device possessing a male connector (20) where said male connector (20) is comprised of a coupling mechanism (via 32 onto 40), wherein said coupling mechanism (32 onto 40) has a complementary shape to the shape of a receiving female receptacle (45) of a female connector (42) that is of substantially flat form (via 40), and said side (40) is attached to a side of an earring (vertical side to the right of 40, lower left of 38; part of earring 38) that has at least a portion of its surface flat and of size similar to the said female connector side (40), and said earring side (vertical side to the right of 40, lower left of 38; part of earring 38) is facing an ear when said earring is attached to said ear, said male connector (20)

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possessing means to attach earring to an ear (50), and a locking mechanism (49) to lock in place said male connector (20) to said female connector (22).

*Response to Arguments*

[6] No arguments have been submitted in light of the previous office action, as applicant has submitted all new claims.

*Conclusion*

[7] Applicant's amendment (submission of new claims) necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

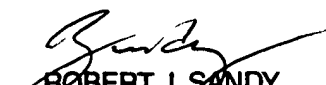
[8] Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Reese whose telephone number is (571) 272- 7082. The examiner can normally be reached on 7:30 am - 6:00 pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on (571) 272-7075. **Until July 14<sup>th</sup>, the fax phone number for the organization where this application or proceeding is assigned is 703-872-9306; starting July 15<sup>th</sup>, however, the new fax phone number will be (571) 273-8300, please make note.**

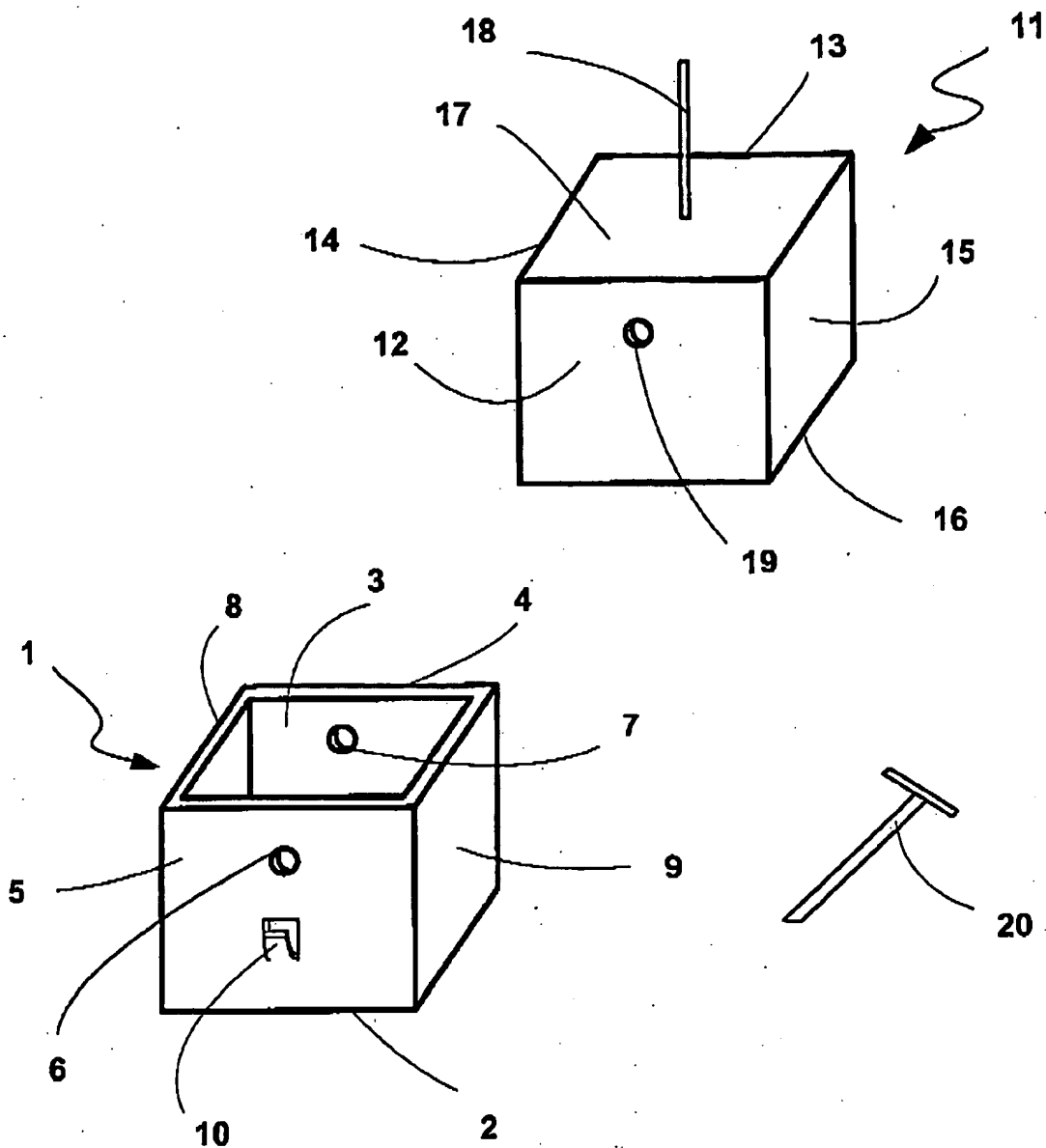
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sincerely,  
David Reese  
Assistant Examiner  
Art Unit 3677

DCR

  
ROBERT J. SANDY  
PRIMARY EXAMINER

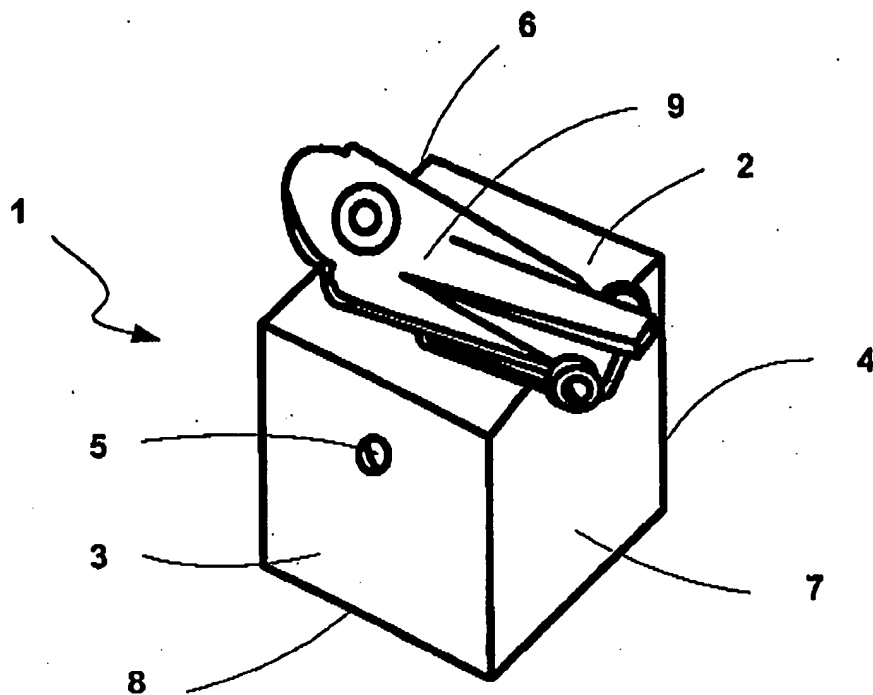
To Be Entered (1)



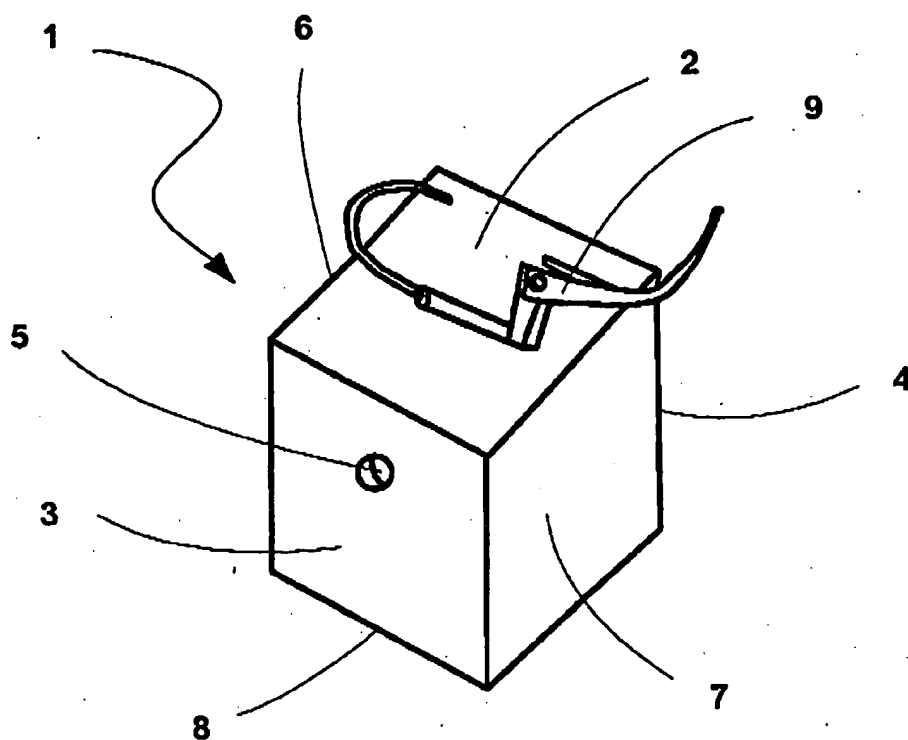
**Fig. 1**



**Replacement Sheet**

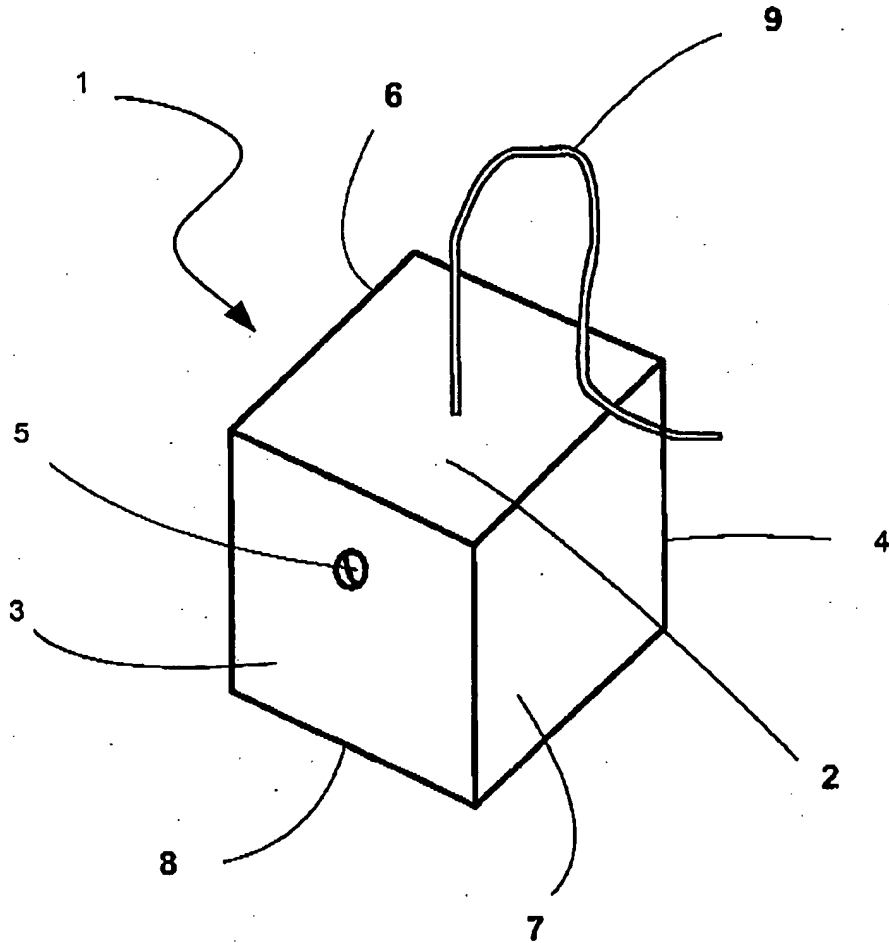


**Replacement Sheet**



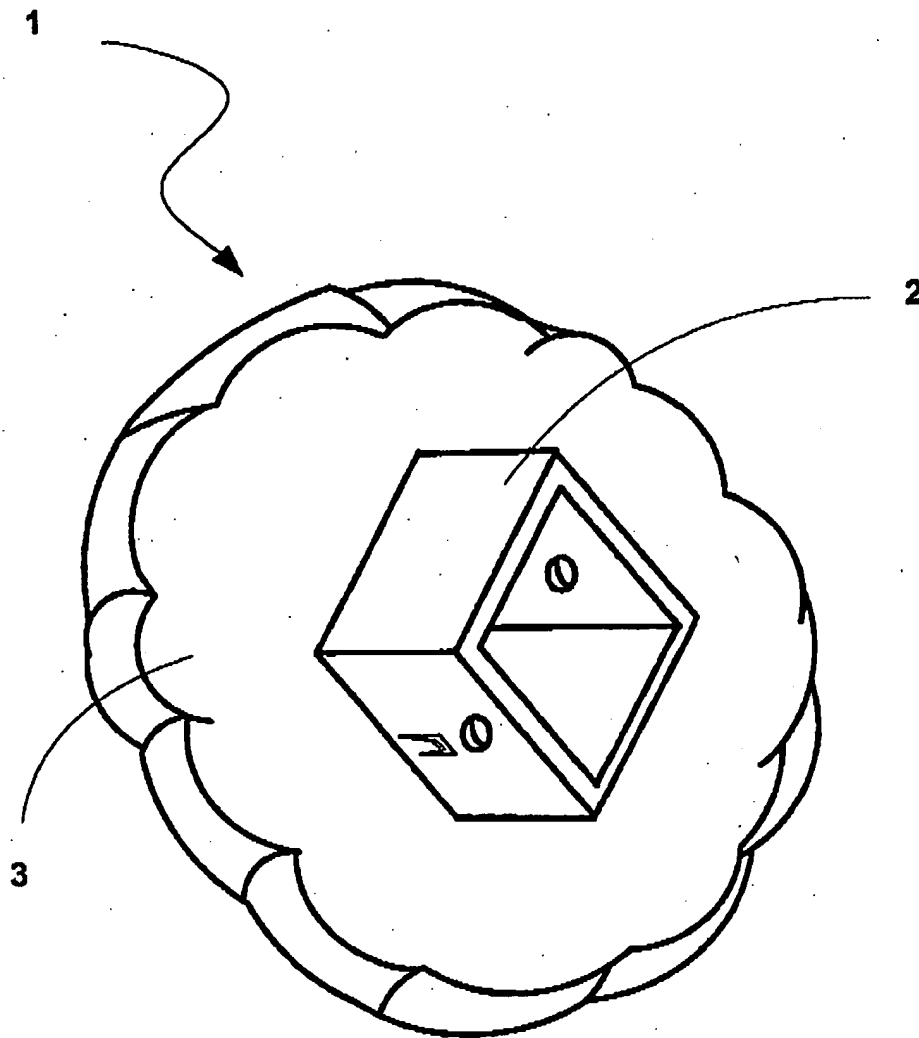
**Fig. 3**

**Replacement Sheet**



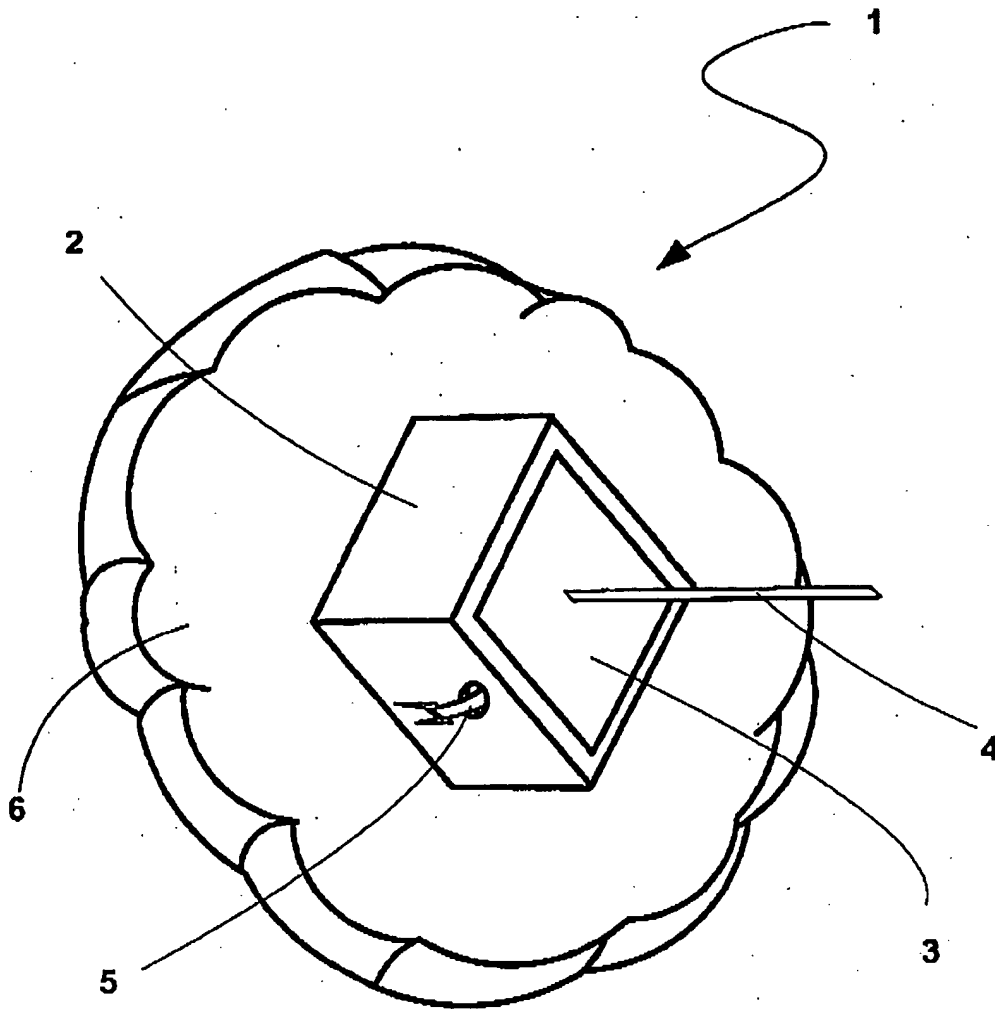
**Fig. 4**

**Replacement Sheet**



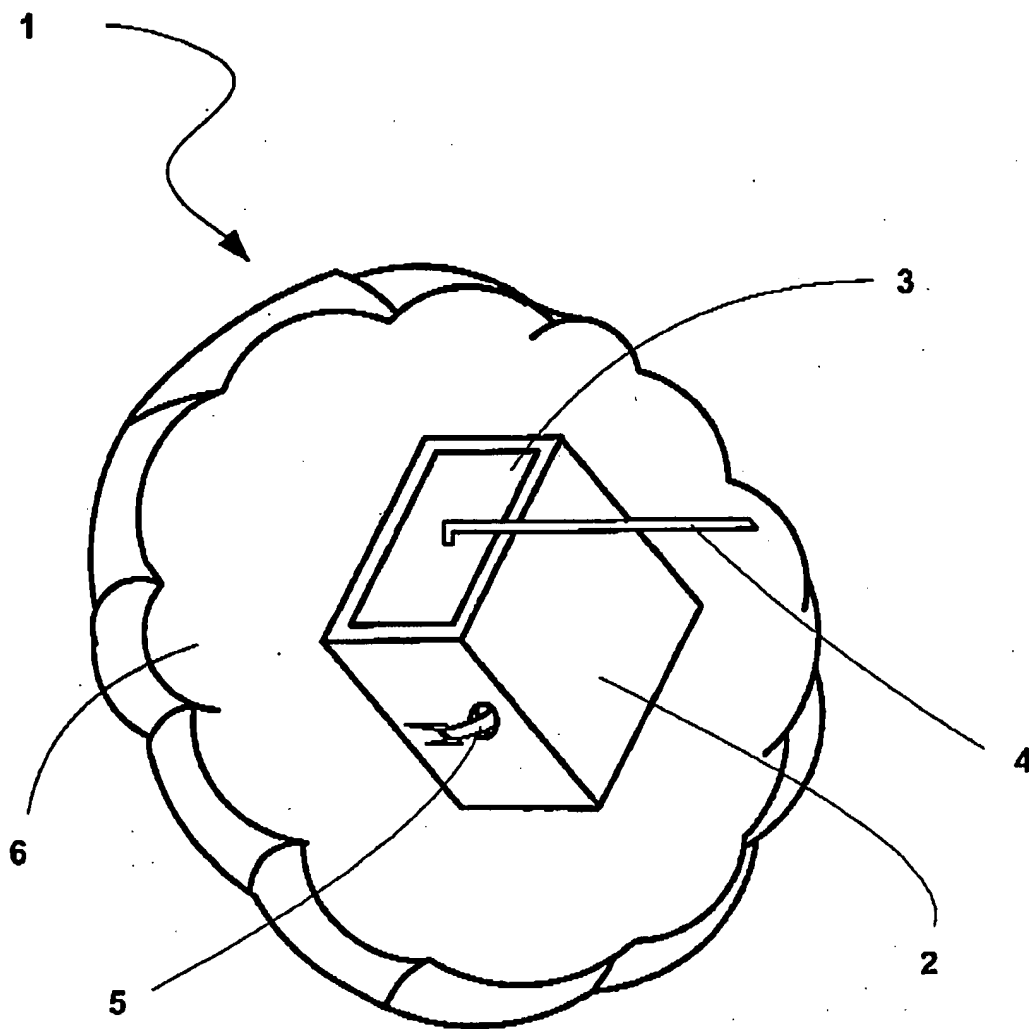
**Fig. 5**

**Replacement Sheet**



**Fig. 6**

**Replacement Sheet**



**Fig. 7**